

Removal of a Director under
provisions of the Companies Act,
2013

M.COM IIInd SEMESTER

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- A Company is governed by its Board of Directors and the Board of Directors are consist of Directors, who are human beings.
- **Section 149 of the Companies Act, 2013** provides that every company registered under the Act, must have a Board of Directors consisting as individuals as directors.
- Section 2(10) provides that directors of a company collectively referred as Board of Directors.
- Section 2 (34) provides that Director means a director appointed to the Board of a Company.

- Provisions of Section 2(13) of the Companies Act, 1956 provides that the term director included a person occupying the position of director by whatever name called.
- The Provisions of Companies Act, 2013 clearly specify that unless a person is appointed as a Director to the Board of Directors of a Company is not called as Director. So to be called a Director an individual should be appointed as Director to the Board of directors of a Company.
- In some companies some individuals are designated as directors without appointing them as director under the applicable provisions of the Companies Act, 2013. They are not directors under the provisions of the Companies Act, 2013. So to be a directors an individual must be appointed to the Board of directors of a Company under the provisions of the **Companies Act, 2013**.

Removal of a Director under provisions of the Companies Act, 2013

- The provisions of Section 169 of the Companies Act, 2013 empowers the shareholders of a company to remove a director before expiry of his tenure of appointment.
- 1. a director appointed by the Tribunal under provisions of Section 242 of the Act.
- 2. a director appointed according to the provisions of Section 163 of the Act. (A company which has availed itself of the option given to it under section 163 to appoint not less than two thirds of the total number of directors according to the principle of proportional representation.)
- 3. a Nominee Directors appointed by the financial institutions governed by separate statutes promulgated by the parliament.
- 4. a director appointed by BIFR to govern business of the Company.

- Provisions of section 169 provides a statutory right to the shareholders of a company to remove its directors and any contract or act to remove or taken over this right is void.
- A director appointed for lifetime through Article of Association of the Company or by contract may be removed in the General Meeting of the Company according to the provisions of section 169 of the Companies Act, 2013.

- A Special Notice is required according to the provisions of Section 115 of the Companies Act , 2013 to remove a director.
- Section 115 provides that certain resolutions cannot be passed unless a Special Notice has been given for the purpose of passing such resolutions. Such a resolution may be either ordinary or special.